

Office Action Summary

Application No.

10/046,670

Applicant(s)

RALEY ET AL.

Examiner

BEEHNET W. DADA

Art Unit

2435

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,9-11,20-23,29,37,43,45-47,56-59,65 and 73-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,9-11,20-23,29,37,43,45-47,56-59,65 and 73-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is in reply to an amendment filed on April 22, 2009. Claims 1, 7, 9, 10, 20, 22, 29, 37, 43, 45, 46, 56-58, 65 and 73-75 have been amended and claims 2-6, 8, 12-19, 24-28, 30-36, 38-42, 44, 48-55, 60-64 and 66-72 have been canceled. Claims 1, 7, 9-11, 20-23, 29, 37, 43, 45-47, 56-59, 65 and 73-79 are pending.

Response to Arguments

Applicant's arguments, filed April 22, 2009, with respect to the rejection(s) of claim(s) 1, 7, 9-11, 20-23, 29, 37, 43, 45-47, 56-59, 65 and 73-79 under 35 U.S.C 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, claims 1, 7, 9-11, 20-23, 29, 37, 43, 45-47, 56-59, 65 and 73-79 are rejected under 35 U.S.C 112 2nd paragraph.

Claim Objections

Claim 1 is objected to because of the following informalities: Claim 1 recites the limitation "said server". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1, 7, 9-11, 20-23, 29, 37, 43, 45-47, 56-59, 65 and 73-79 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 37, the phrase "capable of" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claims 1 and 37, the phrase "adapted to" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claims 1 and 37, the phrase "operable to" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claims 7, 9-11, 20-23, 29, 43, 45-47, 56-59, 65 and 73-79 depend from claims 1 and 37 and are rejected under the same rationale.

Allowable Subject Matter

Claims 1, 7, 9-11, 20-23, 29, 37, 43, 45-47, 56-59, 65 and 73-79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the 35 U.S.C 112 2nd rejection and claim objection indicated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BEEMNET W. DADA whose telephone number is (571)272-3847. The examiner can normally be reached on Monday - Friday (9:00 am - 5:30 pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Beemnet W Dada/
Primary Examiner, Art Unit 2435
August 15, 2009